

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

BKY: 09-42978-D100
Chapter 13 Case

Anthony Lee Melrevitz,

Debtor.

AMENDED NOTICE OF HEARING AND MOTION TO MODIFY CHAPTER 13 PLAN

TO: Kyle Carlson, P.O. Box 519, Barnesville, MN 56514, Trustee; United States Trustee, and other parties in interest as specified in Local Rule 9013-3.

1. The debtor moves the court for the relief requested below and gives notice of hearing.

2. The court will hold a hearing on this motion at 10:00 am on August 22, 2013, in Courtroom 8 West, United States Bankruptcy Court, 300 South 4th St., Minneapolis, MN 55415.

3. Any response to this motion must be filed and serve not later than June 15, 2013, which is five days before the time set for the hearing (including Saturday, Sundays, and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed.R.Bankr.P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this chapter 13 case was filed on May 11, 2009. The case is now pending in this court.

5. This motion arises under 11 U.S.C. § 1322 and 1325 and Bankruptcy Rule 3015. This motion is filed under Bankruptcy Rule 9014 and local Rules 3015-3, 9006-1, 9013-1, through 9013-5, and such other Local Rules as may apply. Movant requests relief with respect to the approval of the amended chapter 13 plan filed on October 9, 2013.

6. Movant is current with respect to his financial obligations imposed by the current amended chapter 13 plan. Based upon a decrease in the movant's budgetary needs, the movant requests that the court approve an increase of the amended chapter 13 Plan filed on October 9, 2012.

WHEREFORE, the moves the court for an order approving the confirmation of the debtor's amended chapter 13 plan filed on October 9, 2012.

Dated: July 22, 2013

s. Allen W. Elleraas
Allen W. Elleraas - 26426
Attorney for Respondent
816 W. St. Germain St., Ste. 300
PO Box 1820
St. Cloud, MN 56302
(320) 252-1667

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

BKY: 09-42978
Chapter 13 Case

Anthony Lee Meirovitz,

Debtor.

**MEMORANDUM IN SUPPORT OF DEBTOR'S MOTION
TO AMEND CHAPTER 13 PLAN**

FACTS

Debtor filed a modified Chapter 13 Plan in the above referenced bankruptcy case on October 9, 2012. That plan called for monthly payments in the amount of two hundred sixty-three dollars and seventy-two cents (\$263.72). Debtor is current with respect to said plan.

Subsequent to plan modification, debtor changed residence, moving closer to his place of employment. That move occasioned a reduction in debtor's monthly budgetary expenses. Those expenses, under the current plan, were six thousand four hundred sixty-three dollars and ninety-one cents (\$6,463.91) per month. Post move, debtor has established his monthly expenses are now six thousand one hundred twenty-six dollars and sixty-two cents (\$6,126.62) per month. The amended schedules I and J are attached as exhibits, and incorporated by reference.

LEGAL DISCUSSION

Pursuant to 11 U.S.C. §1329(a), and Bankruptcy Rule 3015(g), at any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified by the debtor so as to increase or reduce the amount of payments on claims of one or more classes provided under the plan.

In the instant action, the debtor is responding in good faith by increasing the plan to the extent that debtor's new position permits. It is the contention of debtor that the Amended Plan, as submitted, would constitute the debtor's best efforts to repay his creditors. *In re Estus*, 695 F.2d 311 (8th Cir. 1982).

Moreover, by virtue of the increase in payment, the debtor's Amended Plan does not discriminate against any class of claims, as required by 11 U.S.C. §1322(b)(1). Payments to unsecured claimants should increase.

Debtor contends that his Amended Plan meets the “disposable income” test of 11 U.S.C. §1325(b)(1)(B). *Hamilton v. Lanning*, 130 S. Ct. 2464, 17 L. Ed. 2d 23 (2010).

Debtor’s Amended Plan is being proposed in good faith, as mandated by 11 U.S.C. §1325(a)(3). *In re Soost*, 290 B.R. 116 (Bankr.D.Minn.2003).

CONCLUSION

For the reasons stated here, debtor respectfully requests the confirmation of the debtor’s proposed Amended Chapter 13 Plan.

Dated: July 22, 2013

s/ Allen W. Elleraas
Allen W. Elleraas
ELLERAAS LAW OFFICE
816 W. St. Germain St. #300
St. Cloud, MN 56302
320-252-1067

AFFIDAVIT OF SERVICE BY MAIL.

STATE OF MINNESOTA }
 } ss.
COUNTY OF STEARNS }

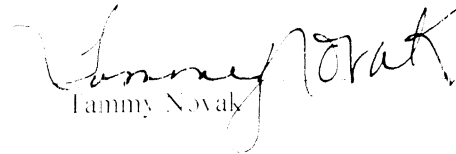
The undersigned, Jennifer Muntifering, being first duly sworn, says that on the ____ day of May, 2013, she served the attached Notice of Hearing and Motion to Amend Chapter 13 Plan, the Memorandum in Support of Motion, the Amended Chapter 13 Plan, the Amended Schedule J, the Amended Schedule J, and the Verification on the following persons):

Best Buy PO Box 15521 Wilmington DE 19850-5521	Capital One P O Box 30285 Salt Lake City UT 84130	Chase PO Box 660509 Dallas TX 75266-0509
Chevron PO Box 103104 Roswell GA 30076	Citi Financial Retail Services PO Box 22060 Tempe, AZ 85285-2060	Countrywide Bank PO Box 5170, MS SV314B Simi Valley, CA 93065
East Bay Funding LLC c/o Resurgent Capital PO Box 288 Greenville SC 29603	eCast Settlement Corp PO Box 305480 Newark, NJ 07193-5480	GF Money Bank PO Box 981127 El Paso, TX 79998-1127
GMAC PO Box 380902 Mpls, MN 55438	GMAC PO Box 38092 Mpls, MN 55438-0902	HSBC PO Box 80084 Carol Stream IL 60197
HSBC PO Box 5250 Carol Stream, IL 60197-5250	JC Penney PO Box 103104 Roswell GA 30076	John Deere PO Box 5327 Madison WI 53705
Juniper PO Box 8802 Wilmington DE 19899-8802	Pier 1 Imports PO Box 15298 Wilmington DE 19850	Target PO Box 1581 Mpls, MN 55440-1581
The Upper Deck Company ATTN: John Zimmer 5909 Sea Otter Place Carlsbad, CA 92010	Wells Fargo 800 Walnut St, E4030-04C Des Moines IA 50309	Bank of America, N.A. 2380 Performance Drive Richardson, TX 75082
Jefferson Capital Systems P O Box 7999 St. Cloud, MN 56302-9617	Bass & Associates P.C 3936 E. Ft. Lowell Rd. Suite 200 Tucson, AZ 85712	Portfolio Recovery Assoc. P O Box 41067 Norfolk, VA 23541

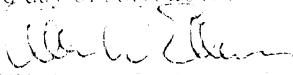
B-Line LLC
Attn: Steven Kane
P.O. Box 91121
Dept 550
Seattle, WA 98111-9221

Vanda, LLC
c/o Weinstein & Riley, P.S.
2001 Western Ave., Ste. 400
Seattle, WA 98121

by then and there depositing in the United States Mail at St. Cloud, Minnesota.


Tammy Novak

Subscribed and sworn to before me this
22nd day of July, 2013.


Notary Public

